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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,710	03/20/2002	Herve Richard	DEB -734US	2327

7590

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Allan Ratner  
Ratner & Prestia  
One Westlakes Berwyn Suite 301  
PO Box 980  
Valley Forge, PA 19482-0980

EXAMINER

BUMGARNER, MELBA N

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/088,710

Applicant(s)

RICHARD, HERVE

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because legal phraseology often used in patent claims, such as “means” and “said,” should be avoided. Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

2. Claims 10 and 11 are objected to because of the following informalities “tool” should read –handpiece—in claims 10 and 11. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is unclear what is meant by “a *parallel* rotation axis” and whether “means” is “torque limiter”, “adjusting” or “spring”. Recitation of “the first shaft”, “the second shaft”, “the first coupling portion”, and “the second coupling portion” in claim 1, “the transverse channels” in claim 7, “the bearing member” in claim 9 lack sufficient antecedent basis.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7, and 11 are rejected as understood, under 35 U.S.C. 103(a) as being unpatentable over Klink (DE 2726325) in view of Loge et al. (5,924,864). Klink discloses a dental handpiece including a drive shaft mounted to rotate in a longitudinal bore of the handpiece and made up of a primary shaft (page 10 line 18) and a secondary shaft (page 10 line 9) which are coaxial, coupled together in series by torque limiter means and provided with means for adjusting the maximum torque (figure 1), the torque limiter means including a male coupling, a female coupling, a series of coupling, at least one rotary coupling member (page 11 line 4), and spring means (page 8 line 25); however, Klink does not show the means accessible by the user, it is assumed that the means is the adjusting means. Loge et al. teach a dental handpiece having a torque limiter means having an adjusting element accessible by the user (column 2 line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the torque limiter means of Klink accessible by the user as in Loge et al. in order to enable the user to set the transmittable torque value that corresponds to the selected (root canal) tool in view of Loge et al. As to claim 2, Klink shows the handpiece includes at least two rotary coupling members (page 11 line 23). As to claim 3, the rotary coupling member is a coupling ball. As to claim 4, the rotary coupling members are mounted to slide radially (page 11 line 4). As to claim 5, the handpiece include means for adjusting the force of the spring means (page 11 line 20). As to claim 7, the transverse passage is oriented in radial direction (page 11 line 3). As to claim 11, the handpiece includes a main body, a neck and a head wherein the torque limiter means are housed in the neck.

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*Allowable Subject Matter*

7. Claims 6 and 8-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

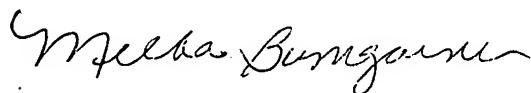
*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kataoka et al. (4,617,837) and Gugel et al. (6,176,703) are cited to show the state of the art with respect to dental handpieces.


9. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 703-305-0740. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Melba Bumgarner  
Patent Examiner



KEVIN SHAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700